under a proposed preferred ship mortgage on the Westhampton, was that Landesbank was not a United States Citizen and did not, therefore, qualify as Mortgagee under the Ship Mortgage Act of 1920 (I R. 177, II R. 7).[1] All the terms of the transaction were arranged between Landesbank and Seatrade Corporation, Petitioner at all times performing only its merely nominal duties as trustee (II R. 23-43). The mortgage and indenture was prepared, not by Petitioner, but by New York attorneys for Landesbank (II R. 7). Landesbank's attorneys even prepared the Opinion to be given by Seatrade's counsel in the matter (I R. 113-114).

The closing took place on August 6, 1962, and a German attorney in the employ of Landesbank came to NewYork for the closing with a Power of Attorney from Landesbank (II R. 7). At that time a mortgage was placed on the vessel in the name of Petitioner as "Mortgagee-Trustee" (II R. 7). However, the proceeds of the loan did not pass through Petitioner's hands and never even left Germany (II R. 7). Landesbank merely set up a deposit of DM 3,836,000 ($960,000.00) in favor of H. C. Stuelcken-Sohn (Stuelcken), the German shipyard, representing 70% of the shipyard's bill (II R. 7). Seatrade gave receipts to both Stuelcken and Landesbank for the consideration, and Stuelcken confirmed to Seatrade that the deposit had been set up in Landesbank (II R. 7, 21, 22). A single bond in the full amount of the debt was executed by Seatrade and delivered to Landesbank (II R. 7, 18). The bond was expressed only in terms of *German currency* (DM 3,836,000 equivalent to approximately $960,000.00) (II R. 7). At the same time Manuel E. Kulukundis, President of Seatrade,

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[1] "R." refers to the Record herein;
"P." refers to the Petition;
"SX" refers to Stipulation Exhibit.

and an American citizen, gave *Landesbank* his personal written guarantee of payment of the bond (II R. 8). Seatrade also gave Landesbank ten promissory notes, also expressed in German marks, each in the amount of the installment of principal and interest guaranteed by Kulukundis (II R. 8). However, there was a written agreement protecting Seatrade and Kulukundis against having to pay both the bonds and the notes (SX 12). It also appears that Landesbank's loan was guaranteed by Stuelcken (III R. 365-66).

Landesbank has at all times been the owner of the bond (II R. 7-8). At the closing it gave Petitioner a written warranty that it was purchasing the bond for its own account as an investment with the intention of holding the same until maturity, and it agreed that it would not dispose of the bond without Petitioner's consent (II R. 7-8). Such consent has never been requested or given (II R. 7-8). This bond was registered in the name of Landesbank as to both principal and interest.

The bond was not registered under the Securities Act of 1933, because it clearly did not involve any "public offering", and was, therefore, specifically exempt (II R. 7-8).

Upon default by Seatrade, Landesbank "called all the shots". It instructed Petitioner to declare the loan due and to take all steps necessary to protect the Bondholder's interest (II R. 8). Thereafter Petitioner did exactly what the Bondholder told it to do, no more no less (II R. 23-24). This assumption by Landesbank of complete control of the situation was in accordance with various provisions of the indenture, particularly Section 5.1B (II R. 14-15).

Following the sale of the SS WESTHAMPTON and the subsequent challenge to Petitioner's priority claim to the

proceeds of sale by Respondents herein, who are intervening Libelants below, the District Court, after hearing testimony on June 19, 1963, and after the submission of stipulated facts, exhibits and legal memoranda, issued an opinion on January 24, 1964, holding that the indenture did not constitute a preferred mortgage on the SS WESTHAMPTON within the meaning of the Ship Mortgage Act. On February 4, 1964, the District Court withdrew its opinion. It thereafter set the matter for another hearing at which Petitioner was permitted to reopen its case and to introduce new testimony, and the Department of Justice was invited to participate.

On March 4, 1964, a second hearing was held. Petitioner introduced additional testimony, and the Department of Justice introduced various exhibits from the files of the Maritime Administration and the Bureau of Customs, and later filed a brief in which it *elected to take no position* as to the correctness of the District Court's withdrawn opinion of January 24, 1964, holding that the indenture did not constitute a preferred mortgage. Included among the documents filed by the Government were rulings by the General Counsel of the U. S. Shipping Board, written in 1924 and 1927 (I R. 174-176), to the effect that a bond issued under a trust deed is a "right under a mortgage", which cannot be issued, sold or assigned to an alien without the prior approval of the Government (U.S. Shipping Board). These rulings are the only rulings in the Government's files that are more or less contemporaneous with the passage of the Ship Mortgage Act of 1920. The evidence presented by the Government shows that it has never insured a mortgage involving a single alien Bondholder (I R. 72, 74). The Government has no financial stake or interest in the outcome of this case since the bond is not an insured bond under Title XI of the Merchant Marine Act of 1936.

On June 11, 1964, the District Court issued a new opinion adhering to the original decision in favor of the objectors to the mortgage. On Petitioner's appeal the Court of Appeals for the Fourth Circuit affirmed the decision of the District Court, but on different reasoning. It found violations of provisions of the Shipping Act of 1916, which were designed to prevent foreign control of United States shipping either directly or indirectly by means of mortgages or rights under mortgages.

Following the opinion of the Court of Appeals, Petitioner moved for reargument in banc. The Committee of American Steamship Lines (CASL) submitted a brief *amicus curiae* urging the Court to grant Petitioner's motion for reargument. While the petition was pending, Congress, at CASL's instigation, enacted Public Law 89-346. Specifically excluded from the effect of this law were any rights which were the subject matter of litigation pending on the date of enactment of the Act. This was done so that the effect of the legislation would not prejudice or affect the rights of any parties to the pending litigation, including the many maritime lien creditors and other creditors of Seatrade Corporation, as well as the Trustees in Bankruptcy for Seatrade Corporation. Following the enactment of Public Law 89-346 supplemental memoranda were submitted by the parties for consideration by the Court of Appeals concerning the effects of the Act. Subsequently Petitioner's petition for reargument in banc was denied.

ARGUMENT

I.

NONE OF THE GROUNDS FOR CERTIORARI AS SET OUT IN SUPREME COURT RULE 19 EXIST IN THIS CASE.

None of the possible grounds for certiorari is present in this case, and consequently Petitioner makes no attempt

to meet the standard requirements for the granting of certiorari as set forth in Supreme Court Rule No. 19. The decision of the Court of Appeals here is not in conflict with that of any other Circuit, and, indeed, Petitioner does not even claim such a conflict.

Nor is there any allegation that the decision of the Court of Appeals raises any question of substantial public importance. All that the Petition shows is that the case is a matter of private interest to Petitioner, Hamburgishe Landesbank (Landesbank), the bondholder, and H. C. Stuelcken-Sohn, the German shipyard (not a party to the case), and the other litigants.

Any possible public impact that the decision below might have had has been eliminated by the passage of Public Law No. 89-346, which amended provisions of the Ship Mortgage Act of 1920 and the Shipping Act of 1916. This legislation was initiated by CASL, which had appeared as *amicus curiae* following the decision of the Court of Appeals, and which had urged a rehearing on the grounds that the Court's opinion affected ship mortgage bonds insured under Title XI of The Merchant Marine Act of 1936, although the bond is *not* a government insured bond. The effect of the passage of Public Law No. 89-346 was to remove all grounds for concern as to the effect that the decision of the Court of Appeals would have in the general field of maritime ship financing. The problems presented in this case will never again occur.

Accordingly, this case now has no importance to anyone but the litigants. As such it is not a case in which certiorari should be granted. As Mr. Chief Justice Taft, speaking for a unanimous Court, stated in *Layne and Bowler Corp. v. Western Well Works, Inc.*, 261 U.S. 387, 393 (1923):

> ". . . it is very important that we be consistent in not granting the writ of certiorari except in cases involv-

ing principles the settlement of which is of importance to the public, as distinguished from that of the parties, and in cases where there is a real and embarrassing conflict of opinion and authority between the Circuit Courts of Appeals."

See also *Rice v. Sioux City Memorial Park Cemetery, Inc.*, 349 U.S. 70 (1955), where Mr. Justice Frankfurter speaking for this Court again, reaffirmed the aforegoing language from the *Layne* case and further stated that the Supreme Court does not "sit for the benefit of the particular litigants."

Lacking better argument, Petitioner, though not representing the United States, presumptuously attempts to create an issue by suggesting that the United States, particularly in the area of foreign business relations, has a stake in the outcome of this case. To refute this "red herring" it is only necessary to point out that the Department of Justice has consistently refused to take a stand in this case. Although invited by the District Court to participate, the Justice Department filed a brief in which it elected to take no position as to the correctness of the withdrawn opinion of the District Court.[2] The Justice Department did not file a brief with the Court of Appeals, and at the oral argument of the case, in response to a direct inquiry from the bench, reiterated that it took no position in the matter. Similarly, when Congress was considering the proposed legislation the Justice Department, although specifically invited, did not participate in the proceedings. Thus, the Department of Justice has not taken a position that the United States has any interest in the outcome of this case or that the Court's decision below was incorrect.

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[2] In Section VI of this brief the Maritime Administration furnished separately its own views as distinguished from those of the Department of Justice.

Petitioner's reliance on the case of *Gondek v. Pan American World Airways, Inc.*, 382 U.S. 25 (1965), is misplaced. That case involved not only a question on which there was a conflict between two Courts of Appeals, but also the curious circumstance of a conflict of decisions solely within one Circuit. Neither situation exists in this case.

II.

PUBLIC LAW 89-346 IS A VALID ACT

Failing to meet the requirements of Rule 19 for the granting of a petition for a writ of certiorari, Petitioner directs its attack on Public Law 89-346. Petitioner complains that Public Law 89-346 is unconstitutional because it exempted from its effect all pending litigation. Petitioner contends that because Congress exempted pending litigation from the bill it has been deprived of due process, has been "invidiously" and "arbitrarily" discriminated against, and that Congress' action approaches a bill of attainder.

This argument comes with little grace in view or the active participation of Petitioner in the events leading up to the passage of Public Law 89-346. While Petitioner did not initiate the steps leading to the passage of the legislation, it did review and approve, at the request of CASL, the original bill as introduced by Senator Bartlett. Of course, Petitioner sought to have the Court of Appeals' decision reversed, in effect, by having the bill as originally introduced include within its scope pending litigation. Then the Senate passed a completely redrafted bill which excluded all pending litigation. Perhaps fearful that Congress might in effect ratify or affirm the Court's decision, Petitioner, then, through its counsel who testified before the House Sub-committee on Merchant Marine, *actually urged Congress to exclude pending litigation from the influence of the proposed legislation.* John W. Barnum, Esq.

who is of counsel for Petitioner in these proceedings and whose name appears on the Petition, appeared on Petitioner's behalf before the House Sub-committee on Merchant Marine and testified as follows:

> "We urge this committee to adopt a bill that would validate the outstanding bonds, all of them, not just those involved in litigation. If this committee does not feel that such validation would be advisable, however, *we urge that at the very least it disclaim, as the Senate committee did, any intention to influence the outcome of the litigation one way or the other.*" (Emphasis added.) *Hearing before the House Subcommittee on Merchant Marine on S. 2118,* 89th Cong., 1st Sess. 34 (1965).

A colloquy between Mr. Barnum and Mr. Dingell, one of the members of the subcommittee was as follows:

> "(Mr. Dingell) You say that you feel that the very least the Congress could do would be to disclaim intention to influence the outcome of the litigation in which you and your clients are involved, is that correct?
>
> "(Mr. Barnum) Yes, sir." *Hearings before the House Subcommittee on Merchant Marine on S. 2118,* 89th Cong. 1st Sess. 34 (1965).

Having urged Congress not to influence pending litigation, how can Petitioner now complain because Congress did just that?

Nor was Petitioner the only party that urged Congress to exempt pending litigation from its legislation. Odell Kominers, representing CASL, which supported Petitioner in the Court of Appeals, testified before the House Subcommittee on Merchant Marine as follows:

> "CASL has no desire to seek to affect the outcome of pending litigation by legislation, whether such litigation involves the *WESTHAMPTON* or other ships.

H.R. 10883 expressly so provides, as does S. 2118 as passed by the Senate."

* * * * * *

"The Senate report makes it abundantly clear that the amendments are not to be interpreted retroactively to affect the rights of any of the litigants in the *WESTHAMPTON* case or other litigation pending at the time of enactment."

* * * * * *

"The objection made by all parties involved in the litigation — that the legislation might affect the outcome of the *WESTHAMPTON* case — is met by an express provision in the House and Senate bills that it shall not." *Hearings before the House Subcommittee on Merchant Marine on S. 2118,* 89th Cong., 1st Sess. 27-31 (1965).

The question of whether or not pending litigation should be excluded from the effect of the legislation received Congress's careful consideration. The initial Senate Committee on Commerce report (89th Cong., 1st Sess., S. Report No. 686) states:

"The committee determined that rights in all litigation pending at the time the legislation is passed should not be retroactively affected by the act. The parties have voluntarily submitted their dispute under the present law by invoking the jurisdiction of the judicial branch. The committee concluded that Congress should not intercede while the Court has the matter under consideration and the last sentence of Section 4 so provides."

When the Conference Report of the Committee of Conference of both Houses was submitted to the House of Representatives by Congressman Garmatz on October 21, 1965, he stated:

"In conference it was unanimously decided that in order to be fair to all parties involved in the pending

> litigation, the legislation should not be applicable to such pending litigation. The House conferees offered an amendment which so provided, and this amendment was accepted by all the conferees."
>
> * * * * * *
>
> "Thus it will be clear that the Congress is not interested in substituting its judgment for that of the courts in the matters now pending in litigation." 111 Cong. Rec. 26832 (1965).

Similar remarks were made by Senator Bartlett when he submitted the Conference Report to the Senate. See 111 Cong. Rec. 27026-27027 (1965).

The exclusion of pending litigation from the effect of a statute is a perfectly valid exercise of the legislative function, particularly where, as here, the Court had already rendered its opinion. As Senator Bartlett stated in his final remarks to the Senate urging the adoption of the conference report:

> "Congress and State legislatures again and again each session pass legislation with special provisions included, generally referred to as saving clauses, which exclude from the effect of any legislative act rights pending in litigation. This is proper." 111 Cong. Rec. 27027 (1965).

This Court, in recent years, has had before it a case involving a statute exempting pending litigation, and an opinion was rendered in connection with the final denial of the petition for certiorari. In the case of *Rice v. Sioux City Memorial Park Cemetery, Inc.*, 349 U.S. 70 (1955), an action for damages was brought arising out of a private cemetery's refusal to permit burial of the plaintiff's alleged non-Caucasian husband in a burial lot purchased by plaintiff under a contract restricting burial privileges to members of the Caucasian race. An Iowa State Court rendered

judgment for the defendants, and the plaintiff appealed. The Supreme Court of Iowa affirmed the judgment, and the plaintiff obtained certiorari. This Court then affirmed, by a divided court, and the plaintiff petitioned for rehearing. After the cause of action arose, a new statute had been enacted in Iowa which prohibited the denial of burial grounds solely because of race or color of deceased. The statute apparently had been in existence prior to the initial consideration of the petition by the Supreme Court, but the attention of the Court had not been focused on it. The statute did come to the specific attention of the Court in connection with the petition for re-hearing, and this Court decided that *since the case could never again arise,* the case was one which did not warrant Supreme Court action, and the writ of certiorari was dismissed as improvidently granted.

Petitioner's contention that the decision below and the action of Congress "cannot fail to have significant repercussion in international financial markets" because Congress discriminated against foreign investors is unfounded and fanciful. This contention is best answered by the remarks made by Senator Bartlett on this point when he urged the Senate to adopt the conference report. He stated:

> "There is one matter that I, and I am sure the other conferees are most interested in clarifying. This question was raised in two aide memoirs from the German Government and a recent letter dated October 7, 1965, from Douglas MacArthur, II, Assistant Secretary of State for Congressional Relations. The suggestion was made in these notes that this legislation in some way was directed against, and discriminatory toward, German interests. Nothing could be further from the truth.
>
> "This has been a very complicated matter and I can understand where some confusion could arise. However, I think it must be kept in mind that German in-

terests of citizens of other nations and interests of U. S. citizens are represented on both sides of the Westhampton litigation exempted from the effects of this bill. On the one hand there is an American bank as mortgagee and trustee under the trust agreement, German bondholders under the trust agreement, and German and American guarantors on the bonds and on separate notes. On the other hand, there are 48 general creditors, some of whom are American companies including German interests. In fact there are recorded in the Westhampton case no fewer than four German general creditors who have claims based upon supplying labor, materials, and services.

"If the Westhampton decision in the court of appeals is sustained it could mean that the German bondholders could recover against an American guarantor for any losses sustained from being placed in the same position as American, German, and other foreign general creditors. The substance of the matter is that this is not a controversy between German interests and U.S. interests. There are both German and American companies interested in sustaining the validity of the bonds in question, and there are American and German general creditors who are not interested in having any preference recognized.

"The difficulty in understanding this saving clause might well be based on the unfamiliarity of some with the tradition and policy we have in this country of considering each branch — the judicial, the executive, and the legislative — as independent, separate, coequal branches of Government. This concept is, of course, foreign to one more familiar with the parliamentary system of government such as that found in Germany. Congress and State legislatures again and again each session pass legislation with special provisions included, generally referred to as saving clauses, which exclude from the effect of any legislative act rights pending in litigation. This is proper. The effort made in this legislation is the same that has been made time and time again in respect to the rights of American

citizens or the citizens of any other nation when legislation is enacted. It is my absolute conviction that this legislation is not in any way discriminatory toward any citizen or any nation and I do not believe that it can be substantiated that the effect of this legislation will be to discriminate against any citizen regardless of nationality.

"I move the adoption of the conference report." 111 Cong. Rec. 27026-27027 (1965).

Petitioner's contention that by passing Public Law 89-346 Congress "intended to undo a judicial deviation from established law" (P. 2) and that the statute "repudiated" the lower Court's decision (P. 9) is simply not true. The bill as enacted does not purport to define or in any way affect the law or the lower Court's decision that a ship mortgage bond is "an interest in a vessel" within the meaning of Section 37(b) of the Shipping Act of 1916. The bill merely amends certain provisions of the Shipping Act and the Ship Mortgage Act so that, where certain conditions are met, bonds, notes or other evidences of indebtedness secured by ship mortgages can be issued or transferred to non-citizens. It is significant, that in amending the law Congress not only established for the first time, in so far as mortgages *not* insured by the government are concerned, certain special qualifications for Trustees when bonds are to be held by aliens, but also required that such Trustees be approved by the Secretary of Commerce. Both of these provisions represent very substantial changes in the law as opposed to the undoing of a "judicial deviation" from the law.

The legislative history of Public Law 89-346 shows this all too clearly. S. 2118 as originally introduced in the Senate, specifically provided that a bond was not to be deemed "an interest in a vessel." See *Hearings Before The Subcommittee on Merchant Marine and Fisheries of the Senate*

Committee on Commerce, 89th Cong. 1st Sess. 1-2 (1965). This original bill was completely abandoned and replaced with an entirely new bill, including a change in the title of the bill. Thus Congress specifically declined to "reverse" the Court of Appeals' decision but rather amended the law to meet certain problems raised by the Court's decision. Above all Congress made it crystal clear (see pp. 10-11, supra), that it was not attempting to affect or express its views on the lower Court's decision. The Senate Committee on Commerce report contains the following:

> "Witnesses appearing before the committee were apprehensive over the effect of the legislation on the *WESTHAMPTON* case. The committee is therefore concerned that any congressional action could be misunderstood as an attempt to influence the final outcome of the litigation by interpreting the meaning of sections 9 and 37 of the Shipping Act, 1916. It should be made clear that any such argument would be misleading the court." *S. Rep. No. 686*, 89th Cong., 1st Sess. 5 (1965)

In short, Public Law 89-346 is not unconstitutional, but is a perfectly normal, proper, and valid exercise of the legislative function, and does not discriminate against anyone. Congress merely left the merits of this particular case for the Courts to decide.

III.

THE CASE WAS DECIDED CORRECTLY ON THE MERITS BELOW.

The questions involving the merits of this case, which commenced in January, 1963, have received more than just careful consideration by the Courts below. The District Court submitted its initial opinion denying preferred status to the mortgage in January, 1964, following a year of briefs, arguments and hearings. In February, 1964, the District Court withdrew its opinion and allowed Petitioner the rare

privilege of reopening its case to present additional evidence, and also specifically asked the Department of Justice for its views. Additional testimony was introduced by Petitioner. The case was then re-briefed and re-argued, following which the the District Court filed a second opinion on June 11, 1964, denying preferred status to the mortgage.

When Petitioner appealed, the case was then fully briefed and argued before the Court of Appeals and decided by the Court on April 5, 1965. Following its decision, briefs in support of and opposition to a petition for reargument in banc were sumitted, and *CASL* submitted a brief *amicus curiae* in support of the petition. Pending Congressional action, the Court withheld action on the petition. After Public Law 89-346 was enacted, further petitions and briefs were filed with the Court of Appeals concerning the effect of the statute. H. C. Stuelcken-Sohn, the German shipyard, submitted a petition and memorandum and replies were filed thereto. On May 3, 1966, The Court of Appeals denied the petition for reargument in banc. The net effect has been that after this case has been argued and reargued, briefed and rebriefed, considered and reconsidered for over three years, not one of the Judges who have heard it has ruled in favor of Petitioner on the question of whether or not the mortgage in question was a valid preferred mortgage. Petitioner has more than just had its "day in court."

It is apparent from its thorough analysis of the legislative history of the Shipping Act of 1916 and the Ship Mortgage Act of 1920 that the Court of Appeals correctly found that one of Congress' main concerns, particularly in its consideration of the Shipping Act, was to prevent alien control of United States shipping through any device, even a mortgage (P. 23a-24a, 28a-29a): The Court of Appeals then found that a bond was an interest in the mortgaged prop-

erty, the vessel, the transfer of which to an alien must be approved by the United States. Since that was not done in this case the mortgage was invalid. To this date Petitioner has not cited one authority controverting the Court's holding that the bond in question was an interest in the mortgaged property within the meaning of the Shipping Act of 1916. The authorities cited by the Court (P. 29a-31a) clearly establish that a bondholder does have an interest in the property mortgaged. To those authorities we might add Bogert, *Trusts and Trustees*, §183, p. 178, where the legal position of the *cestui que trust* was summed up as follows:

> "The situation would seem to be summarized by the statement that, while the right of a cestui que trust was originally purely in personam against the trustee, it has become increasingly a right in rem and is substantially equivalent to equitable ownership of the res."

At II Scott, *Trusts*, §130, p. 967, it is stated:

> "The beneficiary of a trust has a property interest in the subject matter of the trust. He has a form of ownership. He has much more than a claim against the trustee, a mere chose in action."

Particularly significant, moreover, is that the holding of the Court of Appeals is in line with a ruling made in 1924 by the United States Shipping Board (the predecessor of the Maritime Administration). The Board was asked to rule whether the assignment of a bond to an alien would violate Section 961(d) of the Ship Mortgage Act. The Board refused to approve such a transfer, and Chauncey G. Parker, General Counsel of the Shipping Board, wrote:

> "It could hardly be claimed that if negotiable bonds should be issued secured by a mortgage upon a vessel and one or more of the bonds should be assigned, the effect of such an assignment if legal would not vest in

> the assignee of the bond a right under the mortgage upon the vessel, because, as I understand the law, the debt secured by the mortgage is the principal thing and the mortgage is entirely incidental to the debt so that while the debt may be assigned and such assignment would carry the mortgage secured by the debt, on the other hand the mortgage could not be assigned if the debt was not so assigned. Is it not therefore clear that Congress had in view the prohibition against an interest and a right under a mortgage being assigned either directly or as incidental to the assignment of the debt? It is easy to imagine that a person not a citizen of the United States might acquire all of the bonds secured by a mortgage. It would thus become the owner of the entire interests under the mortgage and obviously such a transaction is the very one which Congress sought to prohibit." (I R. 174-175).[3]

This ruling by the Shipping Board stood unchallenged for some 25 years until the Maritime Administration, without any apparent justification or explanation, chose to depart from the position previously taken. It is submitted that the Court of Appeals was correct in giving greater weight to the 1924 and 1927 rulings, which were nearly contemporaneous with the passage of the Acts in question, than the more recent rulings of the Maritime Administration. *Norwegian Nitrogen Products Co. v. United States,* 288 U.S. 294, 315 (1933); *United States v. American Trucking Associations,* 310 U.S. 534, 549 (1940). Note, *Judical Review of Reversal of Policy by Administrative Agencies,* 68 *Harv. L. Rev.* 1251, 1257 (1955).

Petitioner has had every opportunity to present its side of the case fairly and fully. It has done so to the District Court (twice), the Court of Appeals for the Fourth Circuit, and to Congress, and has lost its case in each instance.

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[3] A similar ruling was made in 1927 (I R. 176).

The lower Courts have held, and correctly so, that there is no merit to Petitioner's case. This case no longer involves any legal questions of public interest, and the Petitioner has failed to allege any special or important reasons, as required by Supreme Court Rule 19, why review on certiorari should be undertaken.

CONCLUSION

For these reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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